



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

NI *et al.*

Appl. No.: 10/774,622

Filed: February 10, 2004

For: **Death Domain Containing
Receptor 5**

Confirmation No.: 9532

Art Unit: 1646

Examiner: KAUFMAN, Claire M.

Atty. Docket: 1488.131000D/EJH/SAC

Reply to Restriction Requirement

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the Office Action dated April 10, 2006, requesting an election of one of the three groups of claims to prosecute in the above-referenced patent application, Applicant hereby provisionally elects to prosecute the claims in Group 2, represented by claims 106-109. The subject matter of new claims 120 to 144 presented in the accompanying preliminary amendment is believed to pertain to group 2. This election is made without prejudice to or disclaimer of the other claims or inventions disclosed.

This election is made with traverse.

With respect to the Examiner's division of the claims into three groups and the reasons stated therefor, Applicants respectfully traverse. For example, Groups I and II are related as between a polypeptide (Group II), and a polynucleotide encoding that polypeptide (Group I). Groups II and III are related as between a polypeptide (Group II) and an antibody which specifically binds that polypeptide (Group III).

Even assuming, *arguendo*, that Groups I-III represent distinct or independent inventions, Applicants submit that to search and examine the subject matter of these

Groups together would not be a serious burden on the Examiner. For example, publications which disclose nucleic acids normally also disclose the amino acids encoded by the nucleic acids, thereby making it a simple matter for the Examiner to search and examine claimed polypeptides encoded by claimed nucleic acids. Furthermore publications which disclose polypeptides often disclose raising antibodies to such polypeptides and methods for identifying molecules that bind the polypeptides, thereby making it a simple matter for the Examiner to search and examine antibodies which bind to a given polypeptide and methods to identify molecules that bind to a given polypeptide. Accordingly, it would not be an undue burden for the Examiner to search Groups I-III together. The M.P.E.P. §803 (Eighth Edition, Rev. August, 2001) states:

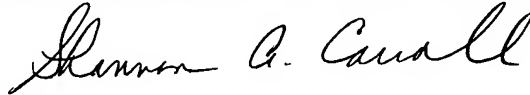
If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Thus, in view of the M.P.E.P. §803, Applicants respectfully request that all claims be searched and examined in the subject application. Therefore, reconsideration and withdrawal of the Restriction Requirement, and consideration and allowance of all pending claims, are respectfully requested.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to our Deposit Account No. 19-0036.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



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